

DNA Samples

604.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of DNA samples from those inmates required to provide samples upon conviction and/or arrest for certain offenses. This policy does not apply to DNA samples collected at a crime scene or taken from a person in conjunction with a criminal investigation.

604.2 POLICY

The Shasta County Sheriff's Office will assist in the expeditious collection of required DNA samples from arrestees and offenders in accordance with the laws of this state and with as little reliance on force as practicable.

604.3 DNA

Beginning on January 1, 2009, all adults arrested for any felony offense must provide a buccal swab (inner cheek scraping) DNA sample, and thumb and palm print impressions for the State of California's DNA (CAL-DNA) Data Bank Program {Penal Code section 296(a)(2)(C)}. This expands 2008 CALDNA Data Bank law provisions governing collection of DNA samples from arrestees. The 2008 law requires adults arrested for a felony Penal Code section 290 register able sex offense, murder, or voluntary manslaughter (including attempts of these crimes) to provide samples for the CAL-DNA Data Bank {Penal Code section 296(a)(2)(A) and (B)}.

The January 1, 2009, provisions governing DNA sample collection from adults arrested for any felony offense are not retroactive and so do not permit collection for arrests that took place prior to 2009. DNA sample collection from any qualifying adult felony arrestee (whether 2008 or 2009) must be based solely upon the offense that precipitated the arrest, and not upon the arrested individual's other criminal history (including prior felony convictions or adjudications).

604.3.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the inmate is required to provide a sample pursuant to Penal Code § 296 and Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

Shasta County Sheriff's Office

Shasta County SO Custody Manual

DNA Samples

604.3.1 COLLECTION

The following steps should be taken to collect a sample:

- (a) Verify that the inmate is required to provide a sample pursuant to Penal Code § 296 and Penal Code § 296.1.
- (b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.
- (c) Use the designated collection kit provided by the California DOJ to perform the collection and take steps to avoid cross contamination.

604.4 CALCULATED USE OF FORCE TO OBTAIN SAMPLES

If an inmate refuses to cooperate with the sample collection process, correctional deputies should attempt to identify the reason for refusal and seek voluntary compliance prior to considering the use of force.

Pursuant to Penal Code Section 298.1, authorized law enforcement, custodial, or corrections personnel including peace officers, may employ reasonable force to collect blood specimens, saliva samples, or thumb or palm print impressions from individuals who are required to provide such samples, specimens or impressions pursuant to Penal Code Section 296 and who refuse following written or oral request.

- (a) For the purpose of this regulation, the "use of reasonable force" shall be defined as the force that an objective, trained and competent correctional employee, faced with similar facts and circumstances, would consider necessary and reasonable to gain compliance with this regulation.
- (b) The use of reasonable force shall be preceded by efforts to secure voluntary compliance. Efforts to secure voluntary compliance shall be documented and include an advisement of the legal obligation to provide the requisite specimen, sample or impression and the consequences of refusal.

The force shall not be used without the prior written authorization of the facility watch commander or designee on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impression and refused.

If the use of reasonable force includes a cell extraction, the extraction shall be videotaped, including audio. Video shall be directed at the cell extraction event. The videotape shall be retained by the agency for the length of time required by statute. Notwithstanding the use of the video as evidence in a criminal proceeding, the tape shall be retained administratively.

Methods to consider when seeking voluntary compliance include contacting:

- (a) The inmate's parole or probation officer when applicable.

Shasta County Sheriff's Office

Shasta County SO Custody Manual

DNA Samples

- (b) The prosecuting attorney to seek additional charges against the inmate for failure to comply or to otherwise bring the refusal before a judge.
- (c) The judge at the inmate's next court appearance.
- (d) The inmate's attorney.
- (e) A chaplain.
- (f) A supervisor who may be able to authorize disciplinary actions to compel compliance, if any such actions are available.

The Watch Commander shall review and approve any calculated use of force. The supervisor shall be present to supervise and document the calculated use of force.